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In The

# Supreme Court of the United States

SNELL ISLAND SNF, LLC d/b/a SHORE ACRES REHABILITATION AND NURSING CENTER, LLC, and HGOP, LLC d/b/a CAMBRIDGE QUALITY CARE, LLC,
*Petitioners*,

v.

NATIONAL LABOR RELATIONS BOARD,
*Respondent*.

*On Petition for Writ of Certiorari to the United States Court of Appeals for the Second Circuit*

## PETITION FOR WRIT OF CERTIORARI

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September 11, 2009

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## QUESTION PRESENTED FOR REVIEW

Whether the National Labor Relations Board acted lawfully and within its statutory authority by delegating all of its powers to a three-member group with the knowledge and intent that only two members would remain to issue decisions and orders, and by thereafter continuing to issue decisions and orders in unfair labor practice and representation cases with only two sitting and participating members.

## LIST OF PARTIES TO THE PROCEEDINGS

Snell Island SNF, LLC d/b/a Shore Acres Rehabilitation and Nursing Center, LLC and HGOP, LLC d/b/a Cambridge Quality Care, LLC, Joint Employers, (collectively "Snell Island"), were respondents before the National Labor Relations Board and petitioners in the court of appeals.

Respondent National Labor Relations Board was respondent in the court of appeals.

## CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6 of the Rules of this Court, Snell Island SNF, LLC and HGOP, LLC certify that they have no parent companies and there are no publicly-held companies having a 10 percent or greater ownership interest in either corporation.

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Snell Island SNF, LLC d/b/a Shore Acres Rehabilitation and Nursing Center, LLC and HGOP, LLC d/b/a Cambridge Quality Care, LLC, Joint Employers, (collectively "Snell Island"), respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit in this case.

## OPINIONS BELOW

The court of appeals' opinion (App. 1-33) issued on June 17, 2009 and is reported at 568 F.3d 410. The National Labor Relations Board's ("Board") Decision and Certification of Representative issued on March 13, 2008 (App. 45-47) and is unreported. The Board's Decision and Order issued on July 18, 2008 (App. 34-44) and is reported at 352 NLRB No. 106.

## JURISDICTION

The court of appeals entered its judgment on June 17, 2009. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254 (1)

## STATUTORY PROVISION INVOLVED

Section 3 (b) of the National Labor Relations Act, 29 U.S.C. § 153 (b) is set forth below:

> The Board is authorized to delegate to any group of three or more members any or all of the powers which it may itself exercise. The Board is also authorized to delegate to its regional directors its powers under section 159 of this title to determine the unit appropriate for the purpose of collective bargaining, to investigate

> and provide for hearings, and determine whether a question of representation exists, and to direct an election or take a secret ballot under subsection (c) or (e) of section 159 of this title and certify the results thereof, except that upon the filing of a request therefor with the Board by any interested person, the Board may review any action of a regional director delegated to him under this paragraph, but such a review shall not, unless specifically ordered by the Board, operate as a stay of any action taken by the regional director. A vacancy in the Board shall not impair the right of the remaining members to exercise all of the powers of the Board, and three members of the Board shall, at all times, constitute a quorum of the Board, except that two members shall constitute a quorum of any group designated pursuant to the first sentence hereof. The Board shall have an official seal which shall be judicially noticed.

## STATEMENT OF CASE

Prior to December 16, 2007, the Board was at its full statutory membership. The five sitting members were Chairman Robert Battista, Member Wilma Liebman, Member Peter Schaumber, Member Dennis Walsh, and Member Peter Kirsanow. On December 16, 2007, Board Chairman Battista's term expired. On December 20, 2007, the Board, acting through its remaining four members, temporarily delegated all of its powers to Members Liebman, Schaumber, and Kirsanow, acting as a three-member group. This temporary delegation, to be effective December 28, 2007, was made in anticipation of the impending expiration of the recess appointments of Members

Kirsanow and Walsh at the expiration of the then-current session of Congress. Relying upon an Opinion of the United States Department of Justice Office of Legal Counsel ("OLC"), which the Board solicited and agreed to be bound by, the Board decided that it would continue to issue decisions and orders despite having only two members. (App. 48-51). The recess appointments of Members Walsh and Kirsanow expired on December 31, 2007, and since January 1, 2008, the Board has been functioning with two members, Liebman and Schaumber.

Snell Island filed timely Election Objections to a representation election conducted by the Board on December 12, 2007. On January 18, 2008, the Board's Regional Director issued a Report on Objections recommending that these Objections be overruled. Snell Island filed timely Exceptions to the Regional Director's Report. On March 13, 2008, Member Liebman and Chairman Schaumber, purporting to act as a quorum of a three-member panel that included the previously departed Member Kirsanow, denied these Exceptions and issued a Decision and Certification of Representative. (App. 45-47).

In order to test the certification, Snell Island refused to recognize or bargain with the Union. On May 16, 2008, the Union filed an unfair labor practice charge (12-CA-25854). On July 18, 2008, Member Liebman and Chairman Schaumber issued a Decision and Order finding that Snell Island had violated Sections 8(a)(5) and (1) of the Act. The Board ordered that Snell Island recognize and bargain with the Union. (App. 34-44).

Snell Island filed its petition for review in the United States Court of Appeals for the Second Circuit on August 14, 2008. The court of appeals had jurisdiction of this petition pursuant to 29 U.S.C. § 160(f). The Board subsequently filed a cross-petition seeking enforcement of its order. The court of appeals had jurisdiction of this cross-petition pursuant to 29 U.S.C. § 160(e). The primary issue raised in the Second Circuit was the Board's power, under § 3 (b), to issue the two decisions being reviewed. Oral argument was held on April 15, 2009. On June 17, 2009, the court of appeals issued its Opinion finding that the Board's position that it was entitled to continue issuing decisions and orders after its membership dropped to two members was a reasonable interpretation of § 3(b), albeit not the only reasonable interpretation, and that deference under *Chevron U.S.A., Inc. v. National Res. Def. Council, Inc.*, 467 U.S. 837 (1984) was warranted. The court of appeals enforced the Board's order. (App. 1-33).

## REASONS FOR GRANTING THE PETITION

The Second Circuit's decision deepens the split that exists among the circuits regarding whether, under § 3(b) of the Act, the Board—consisting of only two members—has the power to issue final decisions and orders in unfair labor practice and representation cases. The Second Circuit's decision squarely conflicts with the decision of the United States Court of Appeals for the D.C. Circuit in *Laurel Baye Healthcare of Lake Lanier, Inc. v. NLRB*, 564 F.3d 469, *rehearing en banc denied*, (D.C. Cir. 2009). The Second Circuit erred not only in its interpretation of § 3(b), but in its decision to apply *Chevron* deference inasmuch as the Board never *decided* the statutory interpretation issue under § 3(b)

and never suggested to the court of appeals that a *Chevron* analysis was applicable. The issue presented is one of immense significance—never decided by the Court—that affects every decision issued by the two-member Board since January 1, 2008. The Court should grant certiorari to resolve the circuit court split, settle definitively the powers of a two-member Board, and correct the Second Circuit's error.

## I. THE FOUR COURTS THAT HAVE CONSIDERED THE TWO-MEMBER BOARD ISSUE HAVE APPLIED FOUR UNIQUE ANALYSES.

The Second Circuit is the fourth court of appeals to address the specific issue of the Board's power under section 3(b) to issue final decisions and orders with only two sitting members. Although the score card currently rests at three to one in favor of the Board's power to issue two-member decisions, all four courts have followed distinct analytical approaches.

### A. The First Circuit's Analysis

On March 13, 2009, the United States Court of Appeals for the First Circuit issued its decision in *Northeastern Land Services, Ltd. v. NLRB*, 560 F.3d 36 (1st Cir. 2009), finding that the Board was empowered to issue two-member decisions. The court's analysis was short and failed to discuss the import of the provision in § 3(b) that the Board's quorum was "at all times" three members:

> The Board's delegation of its institutional power to a panel that ultimately consisted of a two-member quorum because of a vacancy was

> lawful under the plain text of section 3(b). First, section 3(b) allowed the Board to delegate all of its powers to a three-member group. Second, the statute states that "[a] vacancy in the Board shall not impair the right of the remaining members to exercise all of the powers of the Board." The vacancy, which left the two-member quorum remaining, may not, under the terms of section 3(b), impair the right of the two-member quorum to exercise all powers of the Board.

*Id.* at 41.

**B. The D.C. Circuit's Analysis**

On May 1, 2009, the United States Court of Appeals for the D.C. Circuit issued its decision in *Laurel Baye Healthcare of Lake Lanier, Inc. v. NLRB*, 564 F.3d 469, *rehearing en banc denied,* (D.C. Cir. 2009), finding that the two-member Board was without power to issue final orders and decisions. The D.C. Circuit found it unnecessary to decide whether the Board's delegation of powers to a three-member group, knowing that only two would remain to decide cases, was a "sham," as it concluded that the case could be resolved on the basis of the Board's lack of a quorum. The court focused on the statutory requirement for a three-member quorum "at all times" and rejected the Board's contention that the two-member quorum of a three-member group was an "exception" that effectively overrode the three-member quorum requirement.

In rejecting the Board's argument, the D.C. Circuit explained:

> Specifically, the Board's position ignores the requirement that the Board quorum requirement must be satisfied "*at all times*." 29 U.S.C. § 153(b) (emphasis added). Moreover, it ignores the fact that the Board and delegee group quorum requirements are not mutually exclusive. The delegee group quorum provision's language does not eliminate the requirement that a quorum of the *Board* is three members. Rather, it states only that the quorum of any three-member *delegee group* shall be two. *Id.* The use of the word "except" is therefore present in the statute only to indicate that the delegee group's ability to act is measured by a different numerical value. *See id.* The Board quorum requirement therefore must still be satisfied, regardless of whether the Board's authority is delegated to a group of its members. Reading the two quorum provisions harmoniously, the result is clear: a three-member Board may delegate its powers to a three-member group, and this delegee group may act with two members so long as the Board quorum requirement is, "at all times," satisfied. *Id.* But the Board cannot by delegating its authority circumvent the statutory Board quorum requirement, because this requirement must always be satisfied.

*Id.* at 472-473.

The court, citing the Restatement (Third) of Agency § 3.07(4) (2006), noted that "an agent's delegated authority terminates when the powers belonging to the entity that bestowed the authority are suspended." *Id.* at 473. The court thus concluded:

> In the context of a board-like entity, a delegee's authority therefore ceases the moment that vacancies or disqualifications on the board reduce the board's membership below a quorum. It must be remembered that the delegee committee does not act on its own behalf. The statute confers no authority on such a body; it only permits its creation. The only authority by which the committee can act is that of the Board. If the Board has no authority, it follows that the committee has none. The delegee's authority to act on behalf of the Board therefore ceased the moment the Board's membership dropped below its quorum requirement of three members.

*Id.*

### C. The Seventh Circuit's Analysis

On the same day that the D.C. Circuit issued its decision in *Laurel Baye,* the United States Court of Appeals for the Seventh Circuit issued its decision in *New Process Steel, L.P. v. NLRB,* 564 F.3d 840 (7th Cir. 2009). Like the First Circuit, the court gave no consideration to the import of the § 3(b) mandate that "three members of the Board shall, at all times, constitute a quorum of the Board," choosing to focus instead on the vacancies and delegee group quorum provisions. The court concluded:

> The NLRB argues that the statute at issue is clear that the vacancy of one member of a three member panel does not impede the right of the remaining two members to execute the full delegated powers of the NLRB. As the NLRB

> delegated its full powers to a group of three Board members, the two remaining Board members can proceed as a quorum despite the subsequent vacancy. This indeed is the plain meaning of the text. As we read it, § 3(b) accomplished two things: first, it gave the Board the power to delegate its authority to a group of three members, and second, it allowed the Board to continue to conduct business with a quorum of three members but expressly provides that two members of the Board constitutes a quorum where the Board has delegated its authority to a group of three members. The plain meaning of the statute thus supports the NLRB's delegation procedure.

*Id.* at 845-846.

Although the Seventh Circuit was of the view that the meaning of the statutory language was "plain" and that resort to legislative history was unnecessary, it nevertheless found that the legislative history failed to affirmatively support the employer's proffered interpretation of the statute. *Id.* at 847. Finally, the court rejected the contention that the Board panel was not properly constituted because it failed to include three members at the time the case was assigned to the panel. The court distinguished this Court's decision in *Nguyen v. United States*, 539 U.S. 69 (2003), which held that under 28 U.S.C. § 46, a court of appeals panel that did not include three Article III judges in the first instance was improperly constituted and its decision could not be saved simply because two Article III judges concurred in the decision. In the Seventh Circuit's view, the two statutes were

materially different and thus no useful analogy could be drawn. *Id.* at 848.

**D. The Second Circuit's Analysis**

Well in advance of issuing its decision, the Second Circuit had the benefit of the three court decisions described above. After reviewing these decisions, the court of appeals candidly acknowledged the divergent approaches:

> To summarize, one of our sister circuits—the Seventh Circuit—has upheld a decision by the two-member NLRB panel based on the "plain meaning" of section 3(b) of the Act, noting that its interpretation comports with the legislative history of relevant amendments to the Act, without discussing principles of agency (i.e. principal-agent) law. [citation omitted] Another of our sister circuits—the D.C. Circuit—has overturned a decision by the same two-member panel based on the plain language of section 3(b) of the Act, noting that its interpretation comports with applicable principles of agency law, but without discussing the applicable legislative history. [citation omitted] A third sister circuit—the First Circuit—has concluded that the "plain text" of the Act authorized the decisions by the same two-member panel, without either discussing the legislative history or relevant principles of agency law. [citation omitted]
>
> The question regarding the jurisdiction of the NLRB's two-member panel is one ultimately to be resolved by the Supreme Court. In the

> meantime, we must make a determination in the present case.

(App. 18-19).

The court of appeals then deepened the existing split by applying the two-step analysis of *Chevron U.S.A., Inc. v. National Res. Def. Council, Inc.*, 467 U.S. 837 (1984), an analysis that the Board had never suggested was appropriate. (App. 10-13). Following this approach, the court of appeals first addressed whether the meaning of section 3(b) was "plain." The court of appeals agreed with the First Circuit that the initial delegation of powers to a three-member panel, knowing that only two would remain to decide cases, was not improper: "That the NLRB knew that the membership of the panel would soon be reduced from three to two—and that Board's membership would also decrease to two—has no bearing on the fact that the panel was lawfully constituted in the first instance." (App. 20). Next, the court of appeals agreed with the D.C. Circuit that the Board's statutory quorum of three members must be satisfied "at all times," but concluded that this did "not answer the precise question presented here: once the Board has lost its quorum, what happens to a panel that was duly constituted before the Board lost its quorum?" (App. 22). Further, whereas the D.C. Circuit had relied upon principal/agency law to conclude that the delegee group lost its power when the Board lost its quorum, the court of appeals chose to look to the pertinent legislative history. (App. 22-23). After reviewing in some detail the legislative history of Taft-Hartley, the court of appeals concluded that this legislative history "lacks any clear statement of intent regarding the jurisdiction of a plenipotentiary panel where the Board

loses its quorum—the precise question that we face in this case." (App. 28-29).

Having concluded that the statutory language was ambiguous, the court of appeals turned to step two of the *Chevron* analysis, whether the Board's interpretation was a reasonable interpretation to which the court of appeals was required to defer. Under this deferential standard of review, the court of appeals concluded that the Board's interpretation was "reasonable" and thus should be upheld:

> The NLRB's interpretation of the Act is straightforward. The Act expressly permits the NLRB to delegate all or part of its powers to a three-member panel, for which two members constitute a quorum. *See* 29 U.S.C. § 153(b). Although the Act does not expressly provide that a panel retains jurisdiction where the Board loses its quorum, neither does the Act state that the panel loses jurisdiction in such circumstances. In light of the animating purpose of the Taft-Hartley amendments at issue here, which permitted the NLRB to continue to operate in panels of as few as two members in order to increase the Board's overall efficiency, the NLRB interprets the Act as permitting the two remaining members of the Board to issue labor decisions despite the Board's lack of a quorum.
>
> In our view, this is a reasonable interpretation of the statute. Indeed, we commend the NLRB for its conscientious efforts to stay "open for business" in the face of vacancies that it did not create and for which it

> lacked the authority to fill. Of course, the D.C. Circuit's view that where a Board loses its authority, so does its panels, *see* Laurel Baye Healthcare, 564 F.3d at 473, is also a reasonable interpretation of the Act. However, in applying *Chevron* deference, an agency's "view governs if it is a reasonable interpretation of the statute-not necessarily the only possible interpretation, nor even the interpretation deemed most reasonable by the courts." *Entergy Corp. v. Riverkeeper, Inc.*, --- U.S. --, 129 S.Ct. 1498, 1505, 173 L.Ed.2d 369 (2009) (emphasis omitted).

(App. 29-30).

## II. THE DECISION OF THE COURT OF APPEALS CLEARLY AND DIRECTLY CONFLICTS WITH THE D.C. CIRCUIT'S *LAUREL BAYE* DECISION. IT ALSO CONFLICTS IN CERTAIN RESPECTS WITH THE DECISIONS OF THE FIRST AND SEVENTH CIRCUITS.

The court of appeals' decision is clearly and directly in conflict with the decision of the United States Court of Appeals for the D.C. Circuit in *Laurel Baye*. On identical facts, the two courts reached polar opposite legal conclusions on the same statutory construction issue. Whereas the D.C. Circuit held that the two-member Board is without power to issue final decisions and orders, the court of appeals concluded that the two-member Board was so empowered. These decisions are simply not reconcilable.

Although the ultimate conclusion reached by the court of appeals is in harmony with the decisions of the First Circuit in *Northeastern Land Services* and the Seventh Circuit in *New Process Steel,* the analytical paths followed by these courts are in conflict. Contrary to the First and Seventh Circuits, the court of appeals concluded that the meaning of § 3(b) was not "plain," even when considered in conjunction with the legislative history. In applying a *Chevron* deference approach, and asking whether the Board's interpretation was "reasonable," the court of appeals charted completely new territory. The Board had not even suggested a *Chevron* deference analysis, most likely because, as discussed more fully below, the Board never sought to interpret section 3(b), but chose instead to request and be bound by an OLC opinion.

Further percolation in the courts of appeals prior to granting certiorari is unnecessary. The four decisions issued thus far provide four unique perspectives from the courts of appeals and sufficiently define the scope of the statutory construction issue to allow meaningful review by this Court. This same issue is pending in several other circuits, and the Eighth Circuit heard oral argument on the issue in *NLRB v. Whitesell Corp.*, 08-3291, on June 9, 2009.

Because sections 10(e) and 10(f) of the Act, 29 U.S.C. §§ 160(e), 160(f), authorize petitions for enforcement and review of Board decisions to be filed in the United States Court of Appeals for the D.C. Circuit, the split among the circuits is essentially nationwide in scope. The D.C. Circuit's decision in *Laurel Baye*, with which the Second Circuit's decision conflicts, affects, or potentially affects, Board decisions

arising out of unfair labor practice and representation cases in all states and judicial circuits.

Petitions for certiorari are currently pending in the Seventh Circuit case, *New Process Steel,* and in the First Circuit case, *Northeastern Land Services.* On July 15, 2009, the D.C. Circuit granted the Board's motion for a stay of the mandate until October 6, 2009, to allow the Board to decide whether it wishes to seek certiorari in *Laurel Baye.* On August 5, 2009, the Second Circuit granted a stay of its mandate in this case, pending the filing of this petition for certiorari. The issue is ripe for review and definitive resolution by the Court.

## III. THE STATUTORY ISSUE IS OF IMMENSE SIGNIFICANCE AND HAS NEVER BEEN DECIDED BY THIS COURT

The Board has been issuing decisions with only two members since January 1, 2008. In its unopposed motion to stay the mandate in *Laurel Baye,* the Board advised the D.C. Circuit that it was considering filing a petition for certiorari on the two-member Board issue, and the Board acknowledged the significance of the issue, representing to the court:

> The certiorari petition, if filed, would present an issue that is important and recurring in the administration of the NLRA—whether the National Labor Relations Board can administer the NLRA, including issuing decisions in unfair labor practice cases—with only two sitting members, as it has been doing since January 1, 2008. Since that time, the Board has issued over 300 published decisions in unfair labor practice

> and representation cases, as well as numerous unpublished orders, and approximately 100 cases are pending in the courts of appeals.

(App. 55-56).

The Board further advised the D.C. Circuit that "[t]he authority of the two-member Board has been identified as an issue in 30 cases now in [the D.C. Circuit], including this one." (App. 56). Despite the D.C. Circuit's decision in *Laurel Baye,* the two-member Board is continuing to issue final decisions and orders. The President has nominated three new members to the Board, but the Senate has yet to act on those nominations. But even when new members are confirmed and the Board's ability to issue decisions and orders is no longer under a cloud, the statutory issue will remain immensely important, not only with regard to the more than 300 published (and numerous unpublished) decisions that have been issued by a two-member Board, but because the current situation is capable of repetition. Clarification from this Court is the only way the issue can be definitively decided.

The statutory construction issue is complicated because § 3(b) contains four separate provisions that must be construed harmoniously: (1) a delegation provision, (2) a vacancies provision, (3) a general quorum provision, and (4) a delegee group quorum provision. As is apparent from the decisions of the First, Second, Seventh, and D.C. Circuits, there are at least four, and perhaps more, approaches to the statutory construction issue. These courts have disagreed on whether the language of the statute is plain and, if so, what that plain meaning is, and they have disagreed on the significance and import of the

legislative history of the Act, the relevance of principal/agent law, and both whether deference is owed and the degree of any such deference.

The issue is further complicated by the unique circumstances underlying the Board's initial delegation of all powers to a three-member group effective December 28, 2007. There never was any intent that this three-member group would actually issue decisions and orders. And this is not a situation where the underlying case was already assigned to a three-member panel at the time that a vacancy occurred. Indeed, the case had not even reached the Board when the Board dropped to two members. The Board's acknowledged intent, which in practice it has achieved, was to have Members Schaumber and Liebman issue decisions and orders in all cases coming before the Board for what it knew—given the contentious political climate—was likely to be a lengthy, ongoing basis. The Board acknowledges that it could not accomplish this result directly, and serious questions exist as to whether this "sham" delegation is as commendable as the Second Circuit suggested, (App. 30), and whether the show must always go on. If the Second Circuit decision is allowed to stand, it reasonably can be anticipated that future political games will occur as the terms of Board members expire and changes in administration are imminent.

Petitioner contends that the D.C. Circuit's analysis in *Laurel Baye* is the most faithful to the statutory language and the intent of Congress, but no purpose would be served at this stage by analyzing the merits of the statutory construction issue. What can be said is that the courts of appeals have honest disagreements, the issue is highly significant and has

widespread effect, and the split among the circuits is not a tolerable one.

## IV. THE SECOND CIRCUIT COMMITTED GRIEVOUS ERROR IN APPLYING CHEVRON DEFERENCE.

Review is also warranted because the Second Circuit grievously erred in deciding the case under *Chevron* deference principles. In *United States v. Mead Corp.*, 533 U.S. 218 (2001), the Court limited *Chevron* deference to situations where "Congress delegated authority to the agency generally to make rules carrying the force of law, and . . . the agency interpretation claiming deference was promulgated in the exercise of that authority." *Id.* at 226-227. The Court recognized that *Chevron* deference is most frequently applied when the agency charged with administering the statute in question has acted following "notice-and-comment rulemaking or formal adjudication." *Id.* at 230-231.

Here, there is no Board "interpretation" of the statute to which this Court could defer under *Chevron*. Even Justice Scalia, a frequent critic of *Mead*, has recognized that *Chevron* deference is inappropriate when "no interpretation has been made by personnel of the agency responsible for administering the statute." *Christensen v. Harris County*, 529 U.S. 576, 589 (2000) (Scalia, J., concurring in part and concurring in judgment). The Board did not undertake to make, formally or otherwise, its own independent determination as to the meaning of § 3(b). This issue was never litigated in any formal Board proceeding, nor did the Board engage in formal rulemaking. Instead, the Board sought an opinion from the OLC

and the Board agreed to be "bound" by that determination. Thus, it is the opinion of OLC, not the Board, to which the Second Circuit deferred. This was plain error.

That *Chevron* deference was inappropriate is evident from the Board's failure to suggest at any time before the Second Circuit, either in its brief or in oral argument, that deference under *Chevron* was appropriate. Indeed, the Board did not contend that deference of any type, even the more limited deference applied by the Court to more informal agency interpretations in *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944), was appropriate.

## CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

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